IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from order No.653 of 2007

The Mumbai School Sports Association ..Appellant

versus

Bombay Education Society ..Respondent.

Shri A.V.Sakhare with Shri J.S.Kini i/b. Shri Suresh Dubey for the Appellant

Shri D.S.Parikh i/b. Shri Munir Merchant for the respodnent.

Coram : S.R.Sathe, J.
Dated : 10th Sept., 2007

P.C.

1. Heard both the learned advocates for some time. Having regard to the facts of the suit, I think it is necessary to interfere with the Order passed by the learned trial Judge and to modify the same to some extent. In fact, when it was proposed to the learned advocates appearing on both sides that workable Order can be passed whereby it would be made clear that the membership granted by the defendant Association to plaintiff shall continue till the disposal of Notice of Motion on merits. If any competition takes place during the said period then the plaintiff would be entitled to participate in the same and plaintiff would also be entitled to

exercise all rights of membership during the said period. Both the learned advocates fairly submitted that they have no objection to pass such order.

2. The learned advocate for the Appellant-Original defendant made reference about the notice issued by the plaintiff's advocate wherein there is some reference with regard to Contempt of Court. The learned advocate for the plaintiff has submitted that they have in fact moved an application for Contempt and the matter is referred to the Advocate General. From the submissions made, it appears that so far as that issue is concerned, it is totally independent and it has no bearing on the merits of the present suit. Hence this Court has not expressed any opinion about the said action of the plaintiff and defendant in that behalf. Hence, I pass the following order:

ORDER

. A.O. is partly allowed.

. The Order passed by the Trial Judge on

11.7.2007 in Notice of Motion in Suit No.2385 of 2007 is modified as under:

> The membership presently granted by the defendant association to plaintiff shall continue till the disposal of Notice of Motion on merits.
>
> If any competition takes places during the said period, then the plaintiff would be entitled to participate in the same and the plaintiff would also be entitled to exercise all rights of membership during the said period.

. Defendant to file their affidavit in reply, if any, to the Notice of Motion on 17.9.2007 in the lower Court.

. The plaintiff to file rejoinder, if any on 24.9.2007.

. The Trial Court to dispose of the Notice of Motion on merits according to law by 29.10.2007.

. It is made clear that this Court has passed the present order by way of interim arrangement and the trial Court should not be influenced by this Order while disposing off the Notice of Motion on merits.

. A.O. and Civil Application No.929 of 2007 disposed of accordingly.

6. Parties to act on the authenticated copy of this Order.

(S.R.Sathe, J.)